

**REMARKS****INTRODUCTION:**

In accordance with the foregoing, claims 1 and 5 have been amended, and claims 6-20 have been added. No new matter is being presented, and approval and entry of the foregoing amendments and new claims are respectfully requested.

Claims 1-20 are pending and under consideration. Reconsideration is requested.

**RECEIPT OF FOREIGN PRIORITY PAPERS:**

On page 1, box 12, the Examiner indicates that none of the foreign priority documents have been received for the purposes of 35 U.S.C. §119. As indicated in the Continuing Utility Patent Application Transmittal, the foreign priority documents were filed in the parent application, United States Patent Application No. 10/256,244. As such, the foreign priority documents do not need to be again submitted in the instant application. MPEP 201.14(b)(II). Therefore, it is respectfully requested that the Examiner acknowledge prior receipt of the foreign priority documents received in the parent application, such as by checking the appropriate box in a subsequent action.

**PROVISIONAL OBVIOUSNESS TYPE DOUBLE PATENTING REJECTION:**

On pages 2-3 of the Office Action, the Examiner provisionally rejects claims 1-5 under the judicially created doctrine of obviousness-type double patenting in view of U.S. Patent Application No. 10/806,107. Since U.S. Patent Application No. 10/806,107 has not yet been issued as a patent, and since claims 1-5 of the instant application have not yet been indicated as allowable, it is believed that any submission of a Terminal Disclaimer or arguments as to the non-obvious nature of the claims would be premature. MPEP 804(I)(B). As such, it is respectfully requested that the applicant be allowed to address any obviousness-type double patenting issues remaining once the rejection of the claims are resolved and that the rejection be reconsidered in light of the claims presented above.

**REJECTION UNDER 35 U.S.C. §102:**

In the Office Action at pages 3-5, the Examiner rejects claims 1-5 under 35 U.S.C. §102 in view of Ichihara (U.S. Patent No. 6,396,792). This rejection is respectfully traversed and reconsideration is requested.

By way of review, Ichihara discloses a waveform of recording pulses having erasure pulses Pc1 and Pc2 used as erasure signals. As shown in FIGs. 1A and 1B, the first erase

pulse is set to the Pc1 level and the last erase pulse is set to the lower Pc2 level in order to create a space. (Col. 5, line 62 to col. 6, line 15). However, there is no suggestion that the space is created with the first pulse being Pc2 or the last pulse being Pc1.

In contrast, claim 1 recites, among other features, "a recording waveform generating unit generating ...a second multi-pulse having a plurality of second pulses to form the erase pattern in response to the second level of the input data," where "a power level of a leading one of the second pulses of the erase pattern is a low level of the second multi-pulse and a power level of a trailing one of the second pulses of the erase pulse is a high level of the second multi-pulse." As such, it is respectfully submitted that Ichihara does not disclose or suggest the invention of claim 1.

Lastly, while Ichihara suggests that a last pulse of the recording pulses used to make a mark can be a cooling pulse at a level Pr as shown in FIG. 1C, Ichihara does not suggest that the cooling pulse Pr shown in FIG. 1C would be included as one of the erase pulses used to form a space. Specifically, Ichihara suggests that the erase pulse Pc2 can be a level other than the last pulse of the recording waveform so long as the level Pc2 is above the crystallizing temperature. Since the cooling pulse Pr is below the crystallizing temperature, Ichihara does not suggest that the cooling pulse Pr is included with the erase pulses Pc1, Pc2. (Col. 1, lines 38-42, col. 6, lines 39-45; FIGs. 1A and 1B).

In contrast, claim 2 recites, among other features, that "the recording waveform generating unit generates a cooling pulse as a portion of the first multi-pulse and another portion of the second multi-pulse." As such, it is respectfully submitted that Ichihara does not disclose or suggest the invention as recited in claim 2.

For at least similar reasons, it is respectfully submitted that Ichihara does not disclose or suggest the invention of claim 5.

Claims 3 and 4 are deemed patentable due at least to their depending from claim 1.

#### **PATENTABILITY OF NEW CLAIMS:**

Claim 7 is deemed patentable due at least to Ichihara disclosing mark widths of 3tw to 11tw, whereas claim 7 recites, among other features, "a recording waveform generating unit which receives the input data modulated according to according to a Run Length Limited (RLL)(1, 7)."

Claims 6 and 8-18 are deemed patentable due at least to their depending from corresponding claims 1, 2 and 5.

Claims 19 and 20 are deemed patentable due at least to reasons similar to how claim 1 is deemed patentable.

**CONCLUSION:**

In accordance with the foregoing, it is respectfully submitted that all outstanding objections and rejections have been overcome and/or rendered moot. And further, it is respectfully submitted that all pending claims patentably distinguish over the prior art. Thus, there being no further outstanding objections or rejections, the application is submitted as being in condition for allowance which action is earnestly solicited.

If the Examiner has any remaining issues to be addressed, it is believed that prosecution can be expedited by the Examiner contacting the undersigned attorney for a telephone interview to discuss resolution of such issues.

If there are any additional fees associated with the filing of this Amendment, please charge the same to our Deposit Account No. 503333.

Respectfully submitted,

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